

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JANG-WON MOON, SUNG-HOON KIM, KYOIUNG-HO KIM,  
JOUNG-YEAL KIM, and HO-YOUNG SONG

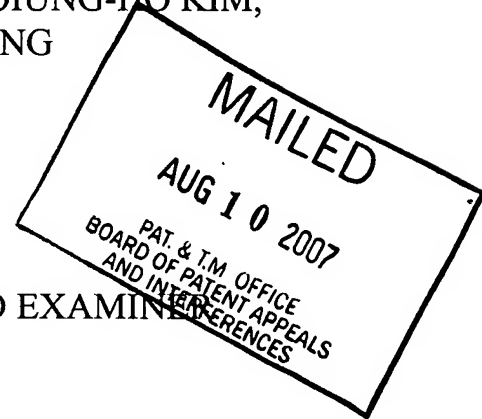
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Application No. 10/715,015

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on July 31, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is wherewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

APPEAL BRIEF

On June 19, 2006, Appellants filed an Appeal Brief. A review of the file reveals that the “Summary of Claimed Subject Matter” does not map each of the independent claims to the specification, as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Proper correction of the Appeal Brief is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provided a summary of the claimed subject matter as required by 37 CFR § 41.37(c)(1)(v), an entire new brief need not, and should not be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR § 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

#### EXAMINER'S ANSWER

The Examiner's Answer filed August 22, 2006, does not fully comply with the requirements of 37 CFR § 41.37. A review of the Examiner's Answer reveals that it is not in compliance with the headings as required under 37 CFR § 41.37(c).

A review of the Examiner's Answer mailed on August 22, 2006, reveals that under the heading Evidence Relied Upon section, page 2, paragraph 8, the Examiner has stated, "No evidence is relied upon by the Examiner in the rejection of the claims

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under appeal.” A review of the file reveals that references to admitted prior art, Yu (U.S. Pat. No. 5,828,612), and Nitta (U.S. Pat. No. 5,831,924) were applied to the statement of rejections in the Grounds of Rejection, paragraph (9) of the Examiner’s Answer.

Before further review, the Examiner must submit a corrected Examiner’s Answer that will include in the Evidence Relied Upon section, the list of references mentioned in the statement of rejections.

In addition, the following heading needs to be included in the Examiner’s Answer mailed August 22, 2006:

“Related Proceedings Appendix” – Copies of any decisions rendered by a court or the Board in any proceeding identified by the examiner in the “Related Appeals and Interference” section of the answer.

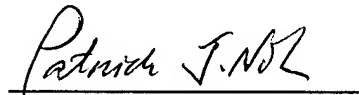
Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on June 19, 2006, defective;
- 2) notify Appellants to file a paper providing a Summary of the Claimed Subject Matter as required by 37 CFR § 41.37(c)(1)(v);
- 3) consider the paper providing a summary of the claimed subject matter as required by 37 CFR § 41.37 (c)(1)(v);

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- 4) issue a PTOL-90 that includes a corrected Evidence Relied Upon section and Related Proceedings Appendix that is in compliance with 37 CFR § 41.37; and
- 5) for such further action as may be deemed appropriate.

BOARD OF PATENT APPEALS  
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